



DEPARTMENT OF JUSTICE

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MORTGAGE RESCUE FRAUD PROTECTION

Foreclosure rescue scams and equity stripping have resulted in homeowners' becoming victims when they enter into contracts they do not understand. The result is that they may lose tens of thousands of dollars along with their homes. The 144th General Assembly has responded with Senate Bill 252 to give homeowners information and rights. The law, found in 6 *Del. C.* Chapter 24B, is enforced by the Attorney General, and will be effective January 1, 2009. You can find the new law at http://delcode.delaware.gov/title6/c024b/index.shtml#P-1_0

Foreclosure consultants who claim that they can save a homeowner from foreclosure, for a fee, must sign a written contract with the homeowner that includes all the terms and provides for a right of cancellation. The contract must be provided at least 24 hours before it is signed by the homeowner. The homeowner must be warned in the contract **"THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY FOR LEGAL ADVICE OR A HOUSING COUNSELOR APPROVED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR OTHER OPTIONS WITH YOUR LENDER BEFORE SIGNING."** Often what a foreclosure consultant offers is a free service from a HUD-approved Housing Counselor.

Some rescue schemes provide that the homeowner deed the property to the foreclosure consultant or to a third party. The homeowner becomes a renter with an option to repurchase. Often the homeowner's equity is stripped at the time of the transfer. The rent payments and the repurchase price are high because the buyer's new mortgage must be large enough to fund the equity stripping. The victim cannot afford the rent and cannot exercise the repurchase option. He or she is evicted. The new law provides that these contracts involving reconveyances must be in writing and they can be rescinded. The homeowner must be given a document entitled **"NOTICE OF TRANSFER OF DEED OR TITLE."** The document must include the statement: **"If you change your mind about transferring ownership of your property, you, the homeowner, may cancel or rescind the transfer of the deed or title to your property at any time before midnight of the third business day that begins the day after you sign the deed or title."** The foreclosure purchaser must verify that the homeowner will have the reasonable ability to buy back the property under the terms of the contract.

The Attorney General has the authority to enforce the provisions of the new law by seeking injunctive relief or restitution for the victim. Someone who willfully violates the law may be required to pay a penalty of up to \$10,000 to the State. A homeowner who brings an

action for violation of the law may be entitled to monetary damages. In addition, a violation is a Class A misdemeanor.

If you, or some you know, are contacted by a person offering to save a home from foreclosure, proceed with caution and find out your rights. If the foreclosure consultant does not offer a written contract that provides all the information and warnings required by law, contact the Consumer Protection Unit of the Department of Justice.

THE CONSUMER PROTECTION UNIT

The Attorney General's Consumer Protection Unit helps [consumers resolve problems with businesses](#). To get information, discuss problems or make a complaint, call our toll-free number from anywhere in Delaware - 800-220-5424. Consumers in New Castle County can also reach us at 577-8600. Helpful consumer information and our complaint form are on-line at www.state.de.us/attgen.